S.B. Criminal Misc.II Bail Application No.1398/2007

Date : 18.07.2007

**HON'BLE MR.SATYA PRAKASH PATHAK, J.**

Mr. Ramesh Purohit for the applicant.

Mr. O.P.Rathi, Public Prosecutor.

I have heard learned counsel for the applicant as well as the learned Public Prosecutor for the State and carefully gone through the impugned order.

The contention of learned counsel for the applicant is that in the instant case no recovery of contraband material was effected from the possession of the accused applicant. He submits that the accused applicant has been charged with the offence under Section 8/29 of the NDPS Act for the reason that one of the accused persons who stated that the contraband material recovered from Iqbal was given by the present accused Javed for delivering the same to some other person at Banswara. It has been submitted that during the course of trial, independent witnesses have not supported the prosecution case and police witness PW3 Kailash in his cross-examination has admitted this fact that

accused Iqbal after his arrest disclosed that contraband material was given to him by the present applicant. According to learned counsel, there is no evidence on record to connect the accused applicant with the crime except the one which is in relation to the inquiry made from accused Iqbal, which is not admissible in evidence.

On the other hand, learned Public Prosecutor has opposed the bail application.

I have considered the submissions made before me.

Without expressing any opinion on the merit of the case while taking into consideration overall facts and circumstances of the case, I deem it just and proper to allow the bail application. Accordingly, the bail application filed under Sec. 439 Cr.P.C. is allowed and it is directed that applicant Javed alias Chayla s/o Ashlam Khan shall be released on bail in FIR No.158/2006 P.S. Pratpgarh, provided he executes a personal bond in the sum of Rs.30,000/- with two sound and solvent sureties in the sum of Rs.15,000/- each to the satisfaction of

learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.

**(SATYA PRAKASH PATHAK), J.**

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